Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Amendment of Parts 65 and 69 of	)	**CC Docket No. 92-133**
the Commission's Rules to Reform	)	
the Interstate Rate of Return	)	
Represcription and Enforcement	)	
Processes	)	

To: The Commission

COMMENTS OF FREDERICK & WARINNER

Frederick & Warinner hereby submits comments pursuant to the Notice of Proposed Rulemaking and Order (Notice), released July 14, 1992, in the above-captioned proceeding.

1. Frederick & Warinner is a certified public accounting firm which specializes in the provision of accounting services to telephone companies. These services include assisting clients in conducting jurisdictional separations cost studies, aiding in the preparation and issuance of interstate access services tariffs, and advising clients regarding accounting and costing requirements under Parts 32, 36, 64, and 69 of the Commission's Rules. These comments are filed by Frederick & Warinner in its own right and on behalf of several of its telephone company clients.

2. On July 14, 1992, the Commission released the above-captioned Notice as a continuation of its efforts to reduce regulatory

burdens by simplifying the rate of return represcription and enforcement processes so they do not impose unnecessary burdens on the telecommunications industry as it continues to develop. Among other things, the Commission proposed to change how it begins represcription proceedings, how it conducts them, and how it estimates the cost of capital during their course.

3. Frederick & Warinner strongly supports the Commission's initiative and direction in this proceeding. As the Notice points out, both the nature of the industry and its regulatory needs have changed dramatically since the divestiture of AT&T. A comprehensive procedure and methodology designed to regulate the entire LEC industry is neither warranted nor efficient. We agree with the Commission's tentative conclusion that simplified procedures and methodologies will facilitate our efforts to ensure that interstate telephone rates are just and reasonable.

4. We also agree with the Commission's proposal not to change its policy of prescribing a unitary, overall rate of return for rate-of-return LECs. This policy, however, cannot be so rigid as to prohibit the allowance of individualized rates for carriers demonstrating exceptional facts and circumstances that set them measurably apart from industry standards. The Commission's proposal to continue its policy of allowing the opportunity for individualized rates, with only the minimum of amendments necessary to ensure consistency with overall procedures, is appropriate in our opinion.

5. With respect to the Commission's proposals regarding surrogates for LEC interstate access service, Frederick & Warinner believes that the Commission's continued reliance on the characteristics evidenced by the RHCs would be appropriate. A brief, if somewhat simplistic, analysis of the data contained in USTA's Statistics for the Local Exchange Carriers for the Year 1990 serves to underscore this point. This publication summarizes Form M-type data for over 600 companies (including the Bell Operating Companies) who are USTA members.

6. For the year ended December 31, 1990, the RHC's accounted for nearly 78% of reported access lines, 75% of total revenue, and 71% of access revenue--certainly more than a large enough sample to represent industry characteristics. The potential argument that their size, dominance, and diversification sets them apart financially and economically can be countered by the fact return on assets, return on stockholders' equity, and debt-to-equity ratios for the RHCs were 5.70%, 14.05%, and 51.15%, respectively, compared with corresponding total USTA membership ratios of 5.88%, 14.26%, and 48.41%, respectively.

7. The addition of nearly 580 LECs to the equation did not move any ratio materially, indicating that expansion of a sample beyond the RHCs would add little more than artificial precision to a process which the Commission itself describes as prescribing a **point within a broad zone of reasonableness**. (Notice at 97; emphasis added.) While we realize (1) that the above averages are based on unadjusted total-company numbers and include extremes both up and down and (2) that there is no direct

extrapolation or translation of our above example to the outcome of a complex cost of capital algorithm, we nevertheless anticipate that the relative results would be comparable. The additional accounting, recordkeeping, reporting, collection and analytical burdens associated with a larger sample would not be justified by the minute movement of a point within a broad zone of reasonableness.

8. Insofar as relative risk to the investment community is concerned, we perceive that the RHCs are most comparable to the rate-of-return LECs. Our experience with both regulated and competitive industry analyses does not support the Commission's tentative conclusions that the S&P 400 and the 100 large electric utilities are appropriate surrogates. In our opinion the investment community views the S&P 400 as fully competitive enterprises with a high level of risk; electric utilities are perceived as more fully-regulated, with commensurately lower levels of risk. The telephone industry represents a moving target between these two extremes, as the face of regulation changes and LECs are permitted to expand into new business lines while adapting to new forms of rate regulation. At some future point, the S&P 400 may become a reasonable surrogate, but not yet. Conversely, the potential usefulness of electric utilities as a reasonable surrogate has been superseded by telephone industry developments.

9. While the actual level of risk for smaller LECs may arguably be higher than for the RHCs (as evidenced by marginally higher return calculations for the entire USTA membership presented in paragraph 6

above), the difference is sufficiently small on an overall basis to promote the use of RHCs as the surrogate. The Commission's provisions for individualized treatment will ensure that carriers facing higher risk levels than the surrogate population will receive adequate consideration.

10. Finally, we agree with the Commission's proposal that represcription be initiated only when significant and relatively long-term changes occur within the capital markets. The current requirement for mandatory biennial proceedings gives no recognition to developments in either the industry or the financial community and results in administrative and economic burdens that are unwarranted. In like manner, however, any triggering mechanism which is fully automatic could become as arbitrary as the biennial requirement with the same or similar consequences.

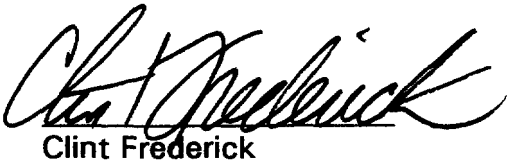
11. The Commission should adopt a semi-automatic trigger to permit further analysis of the circumstances effecting the trigger. This would infuse needed flexibility into the Commission's procedures. As the Commission also points out, however, this could also lead to conflicts over the need for a represcription proceeding. (Notice at 25.) In our opinion such conflict or debate would provide a healthy ingredient to the process by ensuring that the need for any resulting proceeding was publicly justified and documented.

12. Frederick & Warinner appreciates the opportunity to file comments in this proceeding. While we fully support the Commission's direction as proposed in the Notice, however, we reiterate our concern that

additional burdens not be placed on the industry in the name of any quixotic search for exactitude. Such action would not be in line with the Commission's stated efforts to reduce regulatory burdens in this proceeding, and in any event the perceived benefit would appear to be miniscule.

Respectfully submitted,

FREDERICK & WARINNER

By: 
Clint Frederick

DATED: September 10, 1992